
**BZA-1880
ARKOR
Variance**

**STAFF REPORT
April 18, 2013**

REQUEST MADE, PROPOSED USE, LOCATION:

Petitioner, representing the Clarks Hill Volunteer Fire Department and with consent from the Town Board, is requesting a variance to eliminate the paving requirement for its newly constructed volunteer fire station at the corner of White and Silver Streets in Clarks Hill. The property is located at 9400 White Street in Clarks Hill, Lauramie 23 (SW) 21-3 (UZO 4-6-15(a)).

AREA ZONING PATTERNS:

The property is located at the southwestern end of Clarks Hill's commercial area that stretches from Union to Silver. It is zoned NBU, neighborhood business urban. Surrounding residential zoning is R1U, single family residential urban; single family R1B zoning can be found near the town limits.

AREA LAND USE PATTERNS:

The recently completed Clarks Hill volunteer fire station is located on the site; the town received a building permit in September 2012. The town's park and playground is located on the same block to the northeast and an old quonset building owned by the town used for storage is located at the southwest corner of the block. The parking area, drive and maneuvering apron for the fire trucks are currently what appears to be brand new crushed limestone.

To the northeast is Clarks Hill's downtown area which includes the Town Hall, a restaurant, and a convenience store. Surrounding on all sides, uses are typical rural small town residential interspersed with a few churches.

TRAFFIC AND TRANSPORTATION:

The parking requirement for a fire station is 1 per employee on the largest shift, plus 1 per 3 volunteer personnel on a normal shift, plus 1 per 200 sq.ft. of floor area of office space. During the building permit process, petitioner indicated 10 spaces would be required, with of those one handicapped accessible. At that time, petitioner planned on "a new grass paver surface that provides for the parking spaces, maneuvering spaces and maneuvering aisles on the Pearl Street side of the building...the grass paver surface will be [sic] include a total of 10 parking spaces, with one being handicapped." However, petitioner and the Town Board were well aware that paving is required in the NBU zone. The ordinance requires paving of parking spaces and maneuvering aisles in all commercial zones. The paving may either be "bituminous pavement or portland cement concrete, or an alternative dustfree, durable and cohesive surface such as paving blocks or brick."

While grass pavers would not meet ordinance parking standards and still require a variance, it would be a permeable surface and could alleviate any drainage concerns.

The building is constructed with large bay garage doors on both sides so that fire engines can pull through from access from an existing drive at the rear of the property out to White Street. Proposed parking would be along the Silver Street frontage.

ENVIRONMENTAL CONSIDERATIONS:

Petitioner submitted drainage plans to the County Surveyor's office with their building permit application. Those plans included runoff calculations based on grass pavers. Regardless of whether this variance is approved, allowing gravel *or* requiring paving, petitioner will need to resubmit drainage plans to the Surveyor for review.

Based on conversations with the County Surveyor's office, the existing storm inlet drains along Silver Street are in poor condition.

STAFF COMMENTS:

Petitioner and the Town Board first approached staff in early summer 2012 with their plans to construct a new and badly needed volunteer fire station aided by a small town grant. At the time the building permit was approved, petitioner was aware that paving was required in the NBU zone, but proposed grass pavers and submitted drainage calculations to the Surveyor (and received approval) based on pavers. If this variance is approved as requested with crushed limestone, petitioner must resubmit drainage plans; the same holds true if the variance is denied and petitioner must pave. However, if petitioner amends this request to reflect the original plan to install grass pavers, a variance is still needed, but they will not need to resubmit drainage plans.

Petitioner makes the argument that "the majority of adjacent properties utilize crushed stone for their parking areas." Based on a site visit, staff's assessment of the surrounding properties does not align with petitioner's argument. While most of the alleys in Clarks Hill are not paved, and many of the shoulders are loosely paved and partially gravel, the nearby church and all commercial uses have paved on and off-street parking. Town Hall, across the street from the subject property, has paved parking, though in need of repair.

The new fire station certainly brightens up the downtown area of Clarks Hill. Located directly across from Town Hall and adjacent to the city park, it is strategically positioned to provide not only fire protection but also serve as a de facto community center. With that in mind (and ADA requirements for handicapped spaces), petitioner should pave to improve accessibility, usability—it's difficult for children to ride bikes on gravel—and simply for aesthetics.

Staff recognizes that the Clarks Hill Volunteer Fire Department is classified as a charitable organization and "the project is funded by a grant and donations through local fundraising." Staff also realizes the practical difficulty of a budget, projects going over budget and limited funds. However, the ordinance does not recognize such practical

difficulties and staff can find no hardship and no reason the variance should be granted.

Regarding the ballot items:

1. The Area Plan Commission at its meeting on April 17, 2013 determined that the variance requested **IS NOT** a use variance.

And it is staff's opinion that:

2. While petitioner argues that "this facility will create minimal traffic," staff asserts that this building will serve as a community center for Clarks Hill and the southeast part of Lauramie Township. There may be times where traffic is very heavy, generating dust and particulate matter, especially in dry periods. Therefore, by increasing particulate matter, granting this variance **WILL** be injurious to the public health, safety, and general welfare of the community.
3. Use and value of the area adjacent to the property included in the variance request **WILL NOT** be affected in a substantially adverse manner. In fact, allowing petitioner to use pervious surface would likely improve the drainage in the immediate area.
4. While the use—a volunteer fire station—is not necessarily common, the terms of the zoning ordinance are being applied to a situation that **IS** common to other properties in the same zoning district. All properties in the NBU zone must pave parking and maneuvering aisles and in fact, other commercial properties in the area have paved parking.
5. Strict application of the terms of the zoning ordinance **WILL NOT** result in a hardship as defined in the zoning ordinance. Though staff recognizes the town has limited resources from which to finance the project, a tight budget is not a hardship recognized by the ordinance.

Note: Questions 5a. and 5b. need only be answered if a hardship is found in Question 5 above.

5a. It is more costly to pave the required parking spaces than use gravel. Therefore, the hardship involved **IS** self-imposed and based on economic gain.

5b. The ordinance requires paving of all parking areas and maneuvering aisles in the NBU zone; it does not state that only a portion of the spaces may be paved or only the handicapped accessible spaces. The UZO provides no relief from the paving requirement; the variance as requested **DOES NOT** represent only the minimum relief needed to alleviate the hardship.

STAFF RECOMMENDATION WITH CONDITION:

Denial

CONDITION:

If this variance is *denied*, petitioner must resubmit drainage plans to the County

Surveyor showing drainage calculations based on impervious surface;

If this variance is *approved*, petitioner must also resubmit drainage plans showing drainage calculations based on gravel;

If this variance is *amended* to reflect grass pavers and approved, no resubmission is required.